Calendar No. 434

99TH CONGRESS *1st Session* | SENATE | REPORT 99-197

WILLOW CREEK WINTER STOCK WATER, IDAHO

NOVEMBER 21 (legislative day, NOVEMBER 18), 1985.—Ordered to be printed

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 686]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 686) to provide for the relief of water users deprived of winter stock water on Willow Creek, Idaho, below the Ririe Dam and Reservoir having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

As ordered reported, S. 686 would authorize the appropriation beginning October 1, 1985, of $300,000 for the relief of water users deprived of winter stock water on Willow Creek as a result of the operation by the Bureau of Reclamation of Ririe Dam and Reservoir in Idaho.

BACKGROUND

Ririe Dam was constructed by the Corps of Engineers on Willow Creek (a tributary of the Snake River) approximately 30 miles northeast of Idaho Falls, Idaho, to provide flood control, irrigation storage, and recreation. The structure was completed in 1977 and is operated and maintained by the Bureau of Reclamation. The reservoir has a surface area of 1,500 acres and provides joint irrigation and flood control storage of 80,000 acre-feet of water. In order to prevent ice buildup in the floodway and channel downstream from the reservoir, no releases are made during the cold winter months. This deprives landowners adjacent to Willow Creek for a water source for their livestock during winter months.

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S. 686 authorizes the appropriation of $300,000 to be used to pay landowners along Willow Creek for the development of alternate water supplies. Under the terms of the bill, a claimant has 1 year from the date of enactment to notify the Secretary of the Interior of a claim pursuant to the act. Such a claim may be for actual construction costs incurred by the claimant in the development of the alternate water supply or for an amount equal to the funds necessary for such development as determined by the Secretary. The Secretary may pay such a claim only if the claimant executes a waiver and release of any and all claims against the United States relating to the loss of winter stock water from Willow Creek.

LEGISLATIVE HISTORY

S. 686 was introduced on March 19, 1985, by Senators McClure and Symms. The Senate Committee on Energy and Natural Resources, in open business session on November 20, 1985, considered S. 686. By majority vote of a quorum present during the open business session on November 20, 1985, the Committee ordered reported S. 686 without amendment.

An identical measure, S. 483, was introduced in the 98th Congress. Hearings on S. 483 were held before the Subcommittee on Water and Power of the Senate Committee on Energy and Natural Resources on September 15, 1983 (S. Hrg. 98-224 Pt. 3). S. 483 was reported by the Committee on March 22, 1984 (S. Rept. 98-367). No further action was taken.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in an open business session on November 20, 1985, by a majority vote of a quorum present recommended that the Senate pass S. 686 without amendment.

The rollcall vote on reporting the measure was 16 yeas and 1 nay as follows:

YEAS	NAYS
Mr. McCLURE	Mr. METZENBAUM [1]
Mr. HATFIELD [1]	
Mr. WEICKER [1]	
Mr. DOMENICI [1]	
Mr. WALLOP	
Mr. WARNER	
Mr. MURKOWSKI [1]	
Mr. NICKLES	
Mr. HECHT	
Mr. EVANS	
Mr. JOHNSTON	
Mr. BUMPERS	
Mr. FORD	
Mr. BRADLEY	
Mr. BINGAMAN	
Mr. ROCKEFELLER	

[1] Indicates voted by proxy.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 21, 1985.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, 358 Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 686, the Willow Creek Winter Stock Water Supply Act.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

RUDOLPH G. PENNER, *Director.*

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

NOVEMBER 21, 1985.

1. Bill number: S. 686.

2. Bill title: Willow Creek Winter Stock Water Supply Act.

3. Bill status: As ordered reported by the Senate Committee on Energy and Natural Resources, November 21, 1985.

4. Bill purpose: S. 686 would provide for the financial relief of certain landowners adjacent to Willow Creek, Idaho who are deprived of water for their livestock during winter months when the Bureau of Reclamation does not release water from the Ririe Dam and Reservoir. Claimants would be required to file for compensation within one year after enactment of this bill and would be eligible for reimbursement of actual construction costs incurred in the development of an alternative water supply. Claimants would have to prove that they used winter stock water from Willow Creek prior to December 31, 1979, and would be required to file a waiver and release of claims against the United States.

5. Estimated cost to the Federal Government: The estimated budget impact of this bill is shown in the following table for fiscal years 1986 through 1990.

[In millions of dollars]

	Fiscal years				
	1986	1987	1988	1989	1990
Authorization level		0.3			
Estimated outlays		0.2	0.1		

The costs of this bill fall within budget function 300.

Basis of estimate: The authorization level is that stated in the bill. Assuming enactment of S. 686 by early in 1986, claims would

have to be filed by early 1987. Outlays are estimated assuming that most claims would be filed and paid in fiscal year 1987.

6. Estimated cost to State and local governments: None.

7. Estimated comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Theresa Gullo.

10. Estimate approved by: C.G. Nuckols (by James L. Blum, Assistant Director for Budget Analysis).

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 686 as reported.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals or businesses. Other than the information required of a claimant pursuant to section 4 of the measure, there would be no impact on personal privacy. Little paperwork would result from enactment of S. 686 other than that which would be as a result of the filing of claims and making of payments as authorized in the measure.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the committee notes that no changes in existing law would be made by the bill, S. 686, as reported.

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Calendar No. 436

99TH CONGRESS
1st Session

SENATE

REPORT
99-198

ESTABLISHING A PERMANENT BOUNDARY FOR ACADIA NATIONAL PARK

NOVEMBER 22 (legislative day, NOVEMBER 18), 1985.—Ordered to be printed

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Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 720]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 720) to establish a permanent boundary for the Acadia National Park in the State of Maine, and for other purposes, having considered the same, reports favorably thereon with an amendment to the text and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. In order to protect and conserve the land and water resources of Acadia National Park in the State of Maine, (hereinafter referred to as "the Park") and to facilitate the administration of the Park, there is hereby established a permanent boundary for the Park as depicted on the map entitled "Acadia National Park Boundary Map," numbered 123-80,009, and dated November 1985 (hereinafter referred to as "the map.") The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, and it shall be made available to the Registry of Deeds for Hancock and Knox Counties, Maine.

SEC. 2.(a) The Secretary of the Interior (hereinafter referred to as "the Secretary") is authorized to acquire lands and interests therein within the boundaries of the Park by donation, exchange (in accordance with this section) or purchase with donated or appropriated funds, except that—

(1) any lands or interests therein owned by the State of Maine or any political subdivision thereof may be acquired only by donation or exchange; and

(2) privately owned lands or interests therein may be acquired only with the consent of the owner thereof unless the Secretary determines, after written notice to the owner and after providing the owner a reasonable opportunity to comment on such notice, that the property is being developed or proposed to be developed in a manner which is detrimental to the scenic, historical, cultural and other values for which the Park was established. Not later than six months

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after the date of enactment of this Act, the Secretary shall publish specific guidelines under which determinations shall be made under this paragraph and shall provide adequate opportunity for public comment on such guidelines.

(b) For purposes of this section, development or proposed development of private property within the boundary of the Park that is significantly different from or a significant expansion of, development existing as of November 1, 1984, shall be considered by the Secretary as detrimental to the values for which the Park was established: *Provided,* That no reconstruction or expansion of a private or commercial building, including—

(1) reconstruction of an existing building:

(2) construction of attached or accessory structural additions, which do not exceed 50 per centum of the square footage of the principal structure, or cause the total square footage to exceed 2,500 square feet whichever is greater; or

(3) construction of reasonable support development such as roads, parking facilities, water and sewage systems, and dock facilities shall be treated as detrimental to the Park or as an incompatible development within the meaning of this section.

(c)(1) The owner of any private property within the Park may, on the date of its acquisition by the Secretary and as a condition of such acquisition, retain for himself and his successors or assigns a right of use and occupancy for a definite term of not more than twenty-five years, or ending at the death of the owner, or his spouse, whichever is later. The owner shall elect the term to be reserved. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition, less the fair market value, of the right retained by the owner.

(2) Any such right retained pursuant to this subsection shall be subject to such terms and conditions as the Secretary may prescribe and may be terminated by the Secretary upon his determination and after reasonable notice to the owner thereof that such property is being used for any purpose which is incompatible with the administration of the Park or with the preservation of the resources therein. Such right shall terminate by operation of law upon notification to the owner by the Secretary and tendering to the owner the amount equal to the fair market value of that portion which remains unexpired.

(d)(1) In exercising his authority to acquire lands by exchange pursuant to this Act, the Secretary may accept title to non-Federal property located within the boundary of the Park and may convey to the grantor of such property any federally owned property under the jurisdiction of the Secretary which lies outside said boundary and depicted on the map. Properties so exchanged shall be approximately equal in value, as determined by the Secretary, except that the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize the value of the properties exchanged.

(2) Federally owned property under jurisdiction of the Secretary referred to in this subsection which is not exchanged within ten years after enactment of this Act, shall be conveyed to the towns in which the property is located without encumbrance and without monetary consideration: *Provided,* That no town shall be eligible to receive such lands unless, within ten years after enactment of this Act, lands within the Park boundary and owned by that town have been acquired by the Secretary.

(e) Notwithstanding any other provision of this section, lands depicted on the map referenced in section 1 and identified as 10DBH and 11DBH known as the "Bar Harbor Sewage Treatment Plant"; 14DBH known as the "New Park Street Ballfield"; and 15DBH known as the "former Park Headquarters", shall be conveyed by the Secretary, without monetary consideration, to the town of Bar Harbor, Maine, within one hundred and eighty days following the date of enactment of this Act. The real property conveyed pursuant to this subsection shall be used and retained by the town for municipal and public purposes. Title to the properties conveyed pursuant to this subsection shall revert to the United States if such property or any portion thereof is conveyed by the town to another party or used for purposes other than those specified in this subsection.

(f) Notwithstanding any other provision of this section, lands depicted on the map identified as 4DBH, located in the village of Town Hill, Maine, shall be conveyed by the Secretary without monetary consideration, to the town of Bar Harbor, Maine, as soon as practicable following the date of enactment of this Act, subject to such terms and conditions, including appropriate reversionary provisions, as will in the judgment of the Secretary provide for the development and use of such property by any town which so desires as a solid waste transfer station in accordance with a plan that is satisfactory to the towns and the Secretary. The Secretary, shall (sub-

ject to the availability of prior appropriations) contribute toward the cost of constructing such transfer station the lesser of—

(1) $350,000, or

(2) 50 per centum of the cost of such construction.

(g) Notwithstanding any other provision of this section, the Secretary is authorized to acquire by donation or exchange lands or interests therein in the area identified on the map as "Schooner Head", which is outside the boundary of the Park. The Secretary is further authorized to acquire conservation easements on such lands by purchase with donated or appropriated funds if he determines after written notice to the owner and after providing a reasonable opportunity to comment on such notice, that the property is being developed or proposed to be developed in a manner which is significantly different from or a significant expansion of development existing as of November 1, 1984, as defined in subsection (b) of this section.

(h)(1) The Secretary is authorized to acquire conservation easements by purchase from a willing seller or by donation on parcels of land adjacent to the Park on Schoodic Peninsula, the islands of Hancock County, and the islands of Knox County east and south of the Penobscot Ship Channel, except such islands as lie within the town of Isle au Haut, Knox County. Parcels subject to conservation easements acquired or accepted by the Secretary under this subsection must possess one or more of the following characteristics:

(A) important scenic, ecological, historic, archeological, or cultural resources;

(B) shorefront property; or

(C) largely undeveloped entire islands.

(2) Conservation easements acquired pursuant to this subsection shall—

(A) protect the respective scenic, ecological, historic, archeological, or cultural resources existing on the parcels;

(B) preserve, through setback requirements or other appropriate restrictions, the open, natural, or traditional appearance of the shortfront when viewed from the water or from other public viewpoints; or

(C) limit year-round and seasonal residential and commercial development to activities consistent with the preservation of the islands' natural qualities and to traditional resource-based land use including, but not limited to, fishing, farming, silviculture, and grazing.

(3) In determining whether to accept or acquire conservation easements pursuant to this subsection, the Secretary shall consider the following factors:

(A) the resource protection benefits that would be provided by the conservation easement;

(B) the public benefit that would be provided by the conservation easement;

(C) the significance of the easement in relation to the land planning objectives of local government and regional and State agencies;

(D) the economic impact of the conservation easement on local livelihoods, activities, and government revenues; and

(E) the proximity of the parcel to the boundary of the Park and to other parcels on which the Secretary maintains conservation easements.

(4)(A) For purposes of this subsection, the term "conservation easement" means a less-than-fee interest in land or a conservation restriction as defined in section 476 through 479-B inclusive, as amended, of title 33 of the Maine Revised Statutes of 1964, as in effect on the date of the enactment of this Act.

(B) The conveyance of any such interest in land in accordance with this subsection shall be deemed to further a federal conservation policy and yield a significant public benefit for purposes of section 170(h) of the Internal Revenue Service Code of 1954.

(5) No easement may be acquired by the Secretary under this subsection without first consulting with, and providing written notification to, the town in which the land is located and the Acadia National Park Advisory Commission established by section 3 of this Act. In providing such notificaion, the Secretary shall indicate the manner and degree to which the easement meets the criteria provided in this subsection.

(i) Nothing in this section shall be construed to prohibit the use of condemnation as a means of acquiring a clear and marketable title, free of any and all encumbrances.

SEC. 3. (a) There is hereby established an Acadia National Park Advisory Commission (hereinafter referred to as "the Commission"). The Commission shall be composed of sixteen members appointed by the Secretary as follows:

(1) three members at large;

(2) three members appointed from among individuals recommended by the Governor of Maine;

(3) four members, appointed from among individuals recommend by each of the four towns on the island of Mount Desert;

(4) three members appointed from among individuals recommended by each of the three Hancock County mainland communities of Gouldsboro, Winter Harbor, and Trenton; and

(5) three members, appointed from among individuals recommended by each of the three island towns of Cranberry Isles, Swans Island, and Frenchboro.

(b) The terms of the Commission members shall be three years except that, for initial appointments under each paragraph, one member shall serve for a term of one year, and one member shall serve for a term of two years.

(c) The Commission shall elect its own chairman and adopt its own bylaws. Any vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(d) Members of the Commission shall serve without compensation as such, except that the Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its responsibilities under this Act.

(e) The Secretary shall consult with the Commission on matters relating to the management and development of the Park, including but not limited to, the acquisition of lands and interests in lands (including conservation easements on islands); termination of rights of use and occupancy; and the payments to local governments as provided in section 4 of this Act.

SEC. 4. (a) Nothwithstanding the limitation in subsection 3(d) of the Act of October 20, 1976 (90 Stat. 2662) payments in the manner provided in section 3 of that Act shall be made to the appropriate units of local governments with the boundary of the Park for a period of twenty-five years.

(b) Payments received by the units of local government pursuant to this section shall be used only for fire protection, police protection, solid waste management, and road maintenance and improvement.

(c) Payments pursuant to this section may be made only from funds appropriated therefor. Such payments shall be in addition to and not in place of any other funds or form of Federal assistance to which the units of local government are entitled.

SEC. 5. (a) Notwithstanding any other provision of law, Federal property located on Bear Island in the town of Cranberry Isle shall, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying the provisions of the Act. Such Federal property shall not be developed by the Secretary in a manner which would provide for or encourage intensive visitor use.

(b) The Secretary is authorized to make improvements to the Federal property on Bear Island as he deems appropriate for the protection of adjacent private property.

SEC. 6. The provisions of this Act shall not apply to those portions of the Park lying within the Town of Isle au Haut, Maine, which lands shall continue to be governed by the provisions of Public Law 97-335.

SEC. 7. (a) Effective October 1, 1986, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act but not to exceed $9,100,000 for acquisition of lands and interests therein.

(b) For the purposes of paragraph 7(a)(3) of the Land and Water Conservation Fund Act of 1965, as amended, (16 USC 460 1-9), the statutory ceiling provided in subsection (a) shall be deemed to have been enacted prior to the convening of the Ninety-fifth Congress.

(c) Any provision of this Act which, directly or indirectly, authorizes the enactment of new budget authority as described in section 402(a) of the Congressional Budget Act of 1974 shall be effective only for fiscal years beginning after September 30, 1986.

PURPOSE OF THE MEASURE

The purpose of S. 720, as reported, is to establish a permanent boundary for Acadia National Park in the State of Maine that includes existing fee interests of 35,000 acres; easements of 4,200 acres and new acquisition authority for 180 tracts totaling approximately 2,200 acres.

The bill S. 720, as reported, would convey certain lands to communities adjacent to the Park; aid in construction of solid waste transfer facilities for Mt. Desert Island; permit, under certain circumstances for the donation of conservation easements to help pre-

serve Maine coastal areas in Hancock and Knox Counties; and establish an Advisory Commission for the Park.

BACKGROUND AND NEED

In the summer of 1901, a group of longtime summer residents met to form a corporation whose purpose was "to acquire by devise, gift, or purchase, and to * * * hold * * * for public use, lands in Hancock County, Maine, which by reason of scenic beauty, historical interest * * * or other like reasons, may become available for such purpose." The corporation was called the Hancock County Trustees of Public Reservations.

Lands acquired by the Corporation were transferred to the Federal Government and the Sieur de Monts National Monument was formally established on July 8, 1916. Continuing interest on the part of the park's founders in achieving national park status led to its establishment on February 26, 1919 as La Fayette National Park. Then, finally, on January 19, 1929, President Coolidge signed the act establishing the present name, Acadia National Park.

The growth of the park has come largely through individual donations given either through the original corporation or directly to the Secretary of the Interior. Up to the time of the park's establishment, the largest single contributor was John D. Rockefeller, but numerous other individuals have made significant contributions.

The gross acreage in Federal ownership is approximately 35,000 acres scattered widely over Mount Desert and nearby islands. The Secretary of the Interior is empowered to accept donated lands anywhere on Mount Desert Island or the rest of Hancock County, Maine, or on those islands in Knox County, Maine, lying east and south of the main ship channel through Penobscot Bay. Reliance on land acquisition through donation alone has greatly complicated management of the park, whose boundaries are typified by irregularity, scattered units, and variety of inholdings.

Six towns and villages and a number of unincorporated areas are located on Mt. Desert Island and are surrounded by or adjacent to the Park. The providing of city services to Park visitors, the loss of tax base for properties conveyed to the Park, and the amount of city and private land available for development are concerns traditionally voiced by the communities.

LEGISLATIVE HISTORY

S. 720 was introduced by Senators Mitchell and Cohen on March 20, 1985. The Subcommittee on Public Lands, Reserved Water and Resource Conservation held a hearing on S. 720 on July 12, 1985. The Administration supports the enactment of S. 720 if amended.

At a business meeting on November 20, 1985 the Senate Committee on Energy and Natural Resources ordered S. 720, as amended, favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on November 20, 1985, by unanimous vote of

a quorum present recommends that the Senate pass S. 720, if amended, as described herein.

The rollcall vote on reporting the measure was 17 yeas, 0 nays as follows:

YEAS	NAYS
Mr. McClure	
Mr. Hatfield [1]	
Mr. Weicker [1]	
Mr. Domenici [1]	
Mr. Wallop	
Mr. Warner	
Mr. Murkowski [1]	
Mr. Nickles	
Mr. Hecht	
Mr. Evans	
Mr. Johnston	
Mr. Bumpers	
Mr. Ford	
Mr. Metzenbaum [1]	
Mr. Bradley	
Mr. Bingaman	
Mr. Rockefeller	

COMMITTEE AMENDMENT

During the consideration of S. 720, the Committee adopted an amendment in the nature of a substitute. The substitute text makes a number of changes to the bill that was introduced on March 20. While many of the changes were technical and conforming, the major substantive differences are summarized below:

Boundary

The substitute amendment makes a number of minor changes in the proposed boundary of the park. The net result is an increase of approximately 150 acres. The most significant additions include Porcupine Island, Bear Island, several parcels adjacent to Day Mountain on Mount Desert Island, and a significant portion of the undeveloped property in an area known locally as "High Seas."

With respect to the High Seas area, the Committee is aware that negotiations are currently underway between the National Park Service and Jackson Laboratories, the owner of the High Seas property, regarding a land exchange. The Committee urges the land owner and the National Park Service to make every effort to consummate an exchange agreeable to both parties as expeditiously as possible.

Land acquisition

The substitute amendment changes the land acquisition language in a number of respects. The most significant change is the adoption of the Department's recommendation (which is consistent with recent Committee policy on these matters) that the Secretary

[1] Indicates voted by proxy.

have the general authority to acquire privately owned lands within the park boundary. The language makes clear, however, that condemnation is to be used as a last resort and only if the property is being developed or proposed to be developed in a manner detrimental to the scenic, historical, cultural or other values for which the park was established. As introduced, the bill would have severely restricted the Secretary's ability to acquire lands for the park and would have permitted development on a significant number of parcels which are currently undeveloped. This would have resulted in a loss of valuable open space and significantly increased acquisition costs in the future. Like the introduced version, the Committee substitute enumerates a number of specific criteria under which existing developments can be expanded, altered, or reconstructed on property within the park boundary.

Given the manner in which lands have been donated to the park, park boundaries may not, in all instances, be clearly delineated. The Secretary should be responsive to the need to provide boundary surveys, where required, for both past and future land acquisitions.

The Committee notes that the Secretary has the authority to acquire lands within the park by exchange. In fact, a number of specific parcels are identified on the map for deletion from the existing park and are available to the Secretary for use in exchanges to acquire other park lands included in the new boundary. The Committee urges the Secretary, the local governmental entities, and local land owners to fully utilize this authority as a way of reducing land acquisition costs and improving the tax base of the local communities.

Reversionary interests

The Committee substitute adds reversionary clauses to several of the parcels proposed for conveyance to the local communities. These reversionary clauses are designed to ensure that the lands conveyed at no cost by the Federal Government will be used by the towns for municipal and other public purposes and not sold or transferred out of public ownership. However, they would not preclude simple conveyance of title from one public entity to another if, for example, the sewage treatment plant were transferred to a quasi-municipal special purpose water and sewer district.

Advisory commission

The Committee amendment modifies the process by which the members of the Acadia National Park Advisory Commission are appointed and clarifies the role of the Commission in a number of areas. The Committee notes that the new language contemplates that the Commission will include representatives of each of the towns cited in section 3 of the Committee substitute.

Payments to towns

While the Committee amendment does not include the $2 million grant to the towns as provided in S. 720 as introduced, the substitute does provide some additional funds for the local governments surrounded by the park. The substitute includes a provision extending for 20 additonal years the so-called section 3 payments to

local governments made pursuant to the Payments-In-Lieu-of Taxes (PILT) Act. Under section 3 of PILT, local governments receive 1 percent of the fair market value of private lands acquired for inclusion in national parks. This payment cannot exceed the amount of property taxes levied the previous year and is made for a period 5 years from the date of the property is acquired. The Committee amendment would direct that this payment be made for a period of 25 years and the funds used by each town for fire protection, police protection, solid waste management and road maintenance and improvement.

Transportation study

The Committee amendment deletes the requirement for a separate transportation capacity study for the park. Instead, the Committee expects that the existing park transportation system, future transporation needs and transportation capacities will be thoroughly examined with ample opportunity for public comment during the preparation and any significant revision of the general management plan for the park.

Because Acadia National Park lands are intertwined with many small communities, the General Management Plan should address the effects of park visitation on these local communities, including the need for increased local services, and measure impacts on local economies.

Bear Island

Federal land on Bear Island is in disrepair. The Committee feels that an appropriate means of ensuring a cost-effective renovation of this property could be its long term lease for use as a single-family residence.

Authorization of appropriations

The Committee substitute provides for the appropriation of such sums as may be necessary to carry out the provisions of the Act with a $9.1 million limitation on funds for land acquisition. The Committee substitute also makes the provisions of Public Law 95-42 regarding a minor increase in the land acquisition ceiling without further Congressional authorization applicable to Acadia National Park.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 21, 1985.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, 358 Dirksen Senate Office Building, Washington, DC

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 720, a bill to establish a permanent boundary for Acadia National Park.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

RUDOLPH G. PENNER, *Director.*

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

NOVEMBER 21, 1985.

1. Bill number: S. 720.

2. Bill title: A bill to establish a permanent boundary for Acadia National Park.

3. Bill status: As ordered reported by the Senate Committee on Energy and Natural Resources, November 20, 1985.

4. Bill purpose: S. 720 would authorize the Secretary of the Interior by donation, exchange or purchase certain lands or interests therein (including conservation easements) within the boundaries of the Acadia National Park. The acquisition of certain lands outside of the park boundaries would also be authorized. For these purposes, the bill would authorize the appropriation of $9.1 million after October 1, 1986.

The bill would further authorize the Secretary to convey, without monetary consideration, specified lands to localities in Maine, including lands near Bar Harbor to be used for the construction of a solid waste transfer station. The Secretary would be directed to contribute the lesser of $350,000 or one-half of the cost of building such a facility.

Section 3 of the bill would establish an Acadia National Park Advisory Commission and would authorize the Secretary to pay reasonable expenses incurred by the 16-member body in carrying out its duties. Members of the Commission, who would serve without pay, would advise the Secretary on matters relating to the management and development of the park.

Finally, Section 5 would provide for the transfer of federal property on Bear Island, Maine to the jurisdiction of the Secretary, who would be authorized to make appropriate improvements.

5. Estimated cost to the Federal Government:

[In millions of dollars]

	Fiscal years				
	1986	1987	1988	1989	190
Estimated authorization level		9.6	0.1	0.1	0.1
Estimated outlays		3.8	3.5	1.9	0.6

The costs of this bill fall within budget function 300.

Basis estimate: The 1987 authorization level includes specified authorization for land acquisition ($9.1 million) and the maximum federal contribution for construction of the solid waste transfer station ($0.35 million). Also included in the 1987 authorization level and for each following year are estimates for ongoing commission activities and federal payments in lieu of taxes. It is expected that these additional expenses will not exceed $0.1 million a year. Esti-

mates of the cost of authorized land improvements on Bear Island are not available, but they are not expected to add significantly to the costs of this bill. For purposes of this estimate, it is assumed that all sums authorized will be appropriated for each fiscal year. Outlays have been estimated on the basis of historical patterns and information obtained from the National Park Service.

S. 720 provids that for purposes of paragraph 7(a)(3) of the Land and Water Conservation Fund Act of 1965 (Public Law 95–42) the authorization for land acquisition shall be treated as if it had been enacted prior to the convening of the 95th Congress. Public Law 95–42 allows annual appropriations for laws enacted prior to the 95th Congress to exceed statutory authorization ceilings by the greater of 10 percent or $1 million. The above estimate does not include any estimate of additional authorizations that are provided indirectly in this bill as a result of the provisions of Public Law 95–42.

6. Estimated cost to State and local governments: None.
7. Estimate comparison: None.
8. Previous CBO estimate: None.
9. Estimate prepared by: Deb Reis.
10. Estimate approved by: C.G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 720. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 720 as reported.

EXECUTIVE COMMUNICATIONS

The pertinent legislative reports received by the Committee from the Department of the Interior setting forth executive agency recommendations relating to S.720 are set forth below:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, September 20, 1985.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This responds to you request for our views on S. 720, a bill "To establish a permanent boundary for the Acadia National Park in the State of Maine, and for other purposes."

We recommend the enactment of S. 720, provided it is amended in accordance with the concerns expressed below.

Acadia National Park was established by the Act of January 19, 1929 (45 Stat. 1083). Authority for land acquisition was limited to donations in Knox and Hancock counties east and south of the main ship channel. The park consists of 35,064.74 acres held in fee by the Federal Government and 4,209.13 acres in easements.

Under the authority to accept donations, many significant properties, exemplifying the rocky and forested headlands of exceptional resource qualities, have been received. However, important properties, some partially or completely surrounded by park holdings, remain in private ownership. In addition, isolated parcels were donated that today appear to have no significant relationship to the park. In the last half of the 20th century, acquisition limited to donation is no longer an adequate method of land protection. Without other means of land protection, significant resources continue to be lost or threatened due to development and resource consumption.

The National Park Service has identified an additional 2,042.55 acres which we believe should be acquired and devoted to park purposes. These lands are located on Mount Desert Island and 11 other smaller islands adjacent to or near existing park lands. They include rocky and forested headlands of exceptional scenic quality, lands important for ecological protection, and areas for public recreation use.

We strongly support the enactment of legislation to authorize the acquisition of these additional lands by purchase, donation, transfer, or exchange. However, because of some problems with specific provisions contained in this bill, we recommend the enactment of S. 720 only if it is amended as follows:

Boundary.—The National Park Service recommends a boundary for Acadia National Park that includes the existing 35,064.74 acres held in fee by the Federal Government, the existing 4,209.13 acres in easements, and an additional 2,042.55 acres necessary to preserve the integrity of the park's resource base. At the same time, 722.91 acres no longer significant to existing park resources should be deleted. This boundary would add 178 tracts to the existing park land holdings and delete 23 tracts, all located on Mount Desert Island, and it would add 11 islands adjacent to or near existing park lands.

The 11 islands included in S. 720—Schoodic Island, Rolling Island, Bar Island, Egg Rock, Baker Island, Green Islands, Drum Island, Ship Island, Trumpet Island and a yet-to-be-determined island for backcountry camping—are the nucleus of this boundary addition. These islands, supporting divese flora and fauna, preserve the integrity of the seaward orientation that is so unique at Acadia National Park. This boundary would achieve these objectives:

(1) protection of lands of outstanding scenic or ecological significance;

(2) acquisition of lands important for public use or recreation;

(3) elimination of inholdings; and

(4) consolidation of the park land holdings.

The intent of S. 720 is supportive of these objectives. However, two significant areas that we believe are essential for protection of the scenic quality of the park are not included in the park boundary refered to in S. 720. These two areas, Schooner Head and High Seas, consisting of 46.82 acres and 14.00 acres, respectively, are lo-

cated on the eastern rocky cliffs of Mount Desert Island overlooking Frenchman Bay. The National Park Service has identified these properties for acquisition for 20 years. These areas are viewed by millions of visitors from both roadside overlooks on the very popular Park Loop Road and the ocean during boat tours. The visual integrity of the coastline was an important design objective of the Park Loop Road and earlier land acquisition. This uninterrupted view, extending from the ridgetop of Champlain Moutain to the ocean, will be further compromised if these lands remain outside the park boundary and additional rooftops populated the horizon. Both areas adjoin existing park lands. Schooner Head, overlooking the ocean, is bordered on three sides by park land. Their outstanding scenic and natural values, combined with their prime location for Acadia's visitors, make it extremely important that these lands receive permanent park protection.

We strongly recommend including these areas within the park boundary to prevent future resource impacts from alterations to the visual integrity of the coastline, such as the recent development on Schooner Head.

Acquisition authority.—The 2,042.55 acres we recommend for acquisition consist of 178 tracts, of which 136 are not developed. The authority to acquire lands and interests in lands by purchase would be limited to willing sellers under S. 720, except when incompatible developments or changes in use occur or are about to occur. The effect of this provision would be to place the decision of when to acquire and what to acquire in the hands of landowners, rather than the Government. Further, by requiring the Secretary to wait until "incompatible" development is imminent or has already occurred, the bill would ensure that the Government would pay the highest possible price for the land.

From a resource-protection standpoint, the bill's acquisition authority is deficient, because it would permit new construction on 119 of the 136 undeveloped tracts as being compatible with the purposes of the park. Such development is clearly incompatible with park purposes.

We strongly recommend that the bill be amended to authorize acquisition of all lands within the boundary, by condemnation if necessary, subject to the continuation of certain existing uses for 25 years or the lifetime of the owners. We wish to emphasize, however, that condemnation would be used sparingly. Every effort will be made to acquire lands by negotiated purchase, but condemnation authority must be available to prevent resource damage.

Conveyance of Federal lands.—The bill directs that certain Federal lands excluded from the new park boundary be conveyed to local political jurisdictions without cost. This requirement would apply to Federal lands not exchanged within five years, four other specific tracts, and one additional tract to be used as a solid waste transfer station. We support an exchange of the Federally-owned lands now used as the Bar Harbor Sewage Treatment Plant and the New Park Street Ballfield under a special use permit for the non-Federal Lakewood Parcel and Breakneck Road. We also support a transfer of Federally-owned Patty Lot Hill to the Town of Bar Harbor for construction of a solid waste transfer station. We recommend that all other Federal lands excluded from the park be available

for acquisition of the non-Federal lands added to the park by exchange, where agreement can be reached on such exchanges. If no such agreements can be reached, we recommend that these Federal lands be sold at fair market value and the proceeds earmarked for land acquisition purposes in the park.

Additionally, section 2(c) of S. 720 directs the Secretary to convey Patty Lot Hill to the town of Bar Harbor for development of a solid waste transfer station, and it directs the Secretary to pay the lesser of $350,000 or 50 percent of the cost of constructing the facility. The development of a Mount Desert Island-wide solid waste transfer facility to accommodate refuse generated in Acadia National park and island towns has become increasingly imperative. The existing landfill site used by three of the four towns is not in compliance with State of Maine standards and has been cited by the Environmental Protection Agency for violations of the Clean Water Act. Based upon engineering studies, there are no suitable landfill sites on Mount Desert Island. Development of this transfer facility would benefit both the park and its neighboring island towns. We support the need for the facility, and we would not object to provisions authorizing us to contribute to it. However, the national park contributes only about 5 to 10 percent of the total solid waste generated on the island. Furthermore, the bill would give the town an 88-acre parcel of park land on which to construct the facility. This parcel is valued at $65,000. We recommend that the bill be amended to limit the amount the Federal Government contributes to no more than 10 percent of the cost, and that the value of the land given for the facility be taken into account in determining our contribution. No other development or operating costs are anticipated.

Role of Advisory Commission.—Under the Federal Advisory Committee Act, generally, and under section 3(a) of the Act of August 18, 1970, specifically applicable to the National Park System, the Secretary may establish and appoint advisory committees. Such committees differ from the Commission to be created by section 6 of S. 720 in two important respects—they are appointed by the Secretary from recommendations submitted to him, and they exercise an advisory role. Under S. 720, of the 16 Commission members, only three would be appointed by the Secretary, and the remainder would be appointed by non-Federal officials. Furthermore, the role of the Commission would be operational rather than advisory.

For example, section 3(c) requires a justification in writing to the Commission before an easement may be acquired; and section 4 requires a unanimous Commission vote (we assume in favor) before an island may be acquired for camping. The provisions of S. 720 with regard to the Commission should not be enacted because they contravene the basic appointment power of the President and they intrude unnecessarily into the operational authority of the Secretary.

As an alternative to the Advisory Commission, we recommend the existing League of Towns as an appropriate public forum to provide a broad representation to parties interested in park and islandwide issues without the creation of another advisory body.

Grants to towns.—Section 7 of S. 720 directs the Secretary to make a $2 million grant divided among seven towns. We recommend that this provision be deleted. Based on the annual reports of

four of the seven towns referred to in S. 720, each has had a surplus, balance, or carry-over in its annual budget over the years 1974 to 1983. Each has also been the recipient of Federal-revenue-sharing funds, and those towns with Federal lands within them have received payments in lieu of taxes. With the need to reduce spending and the Federal deficit, outright grants such as those directed to be made in this bill cannot be supported. Furthermore, local roads, and police and fire protection, for which these grants would be used, are an inappropriate use of National Park Service funds. The precedent for communities adjacent to other parks across the country to argue for similar grants is inherent in S. 720, and if followed, it would be extremely expensive.

Federal property on Bear Island.—Section 8 of the bill directs the transfer of Federal property on Bear Island, now currently under the jurisdiction of the town of Cranberry Isle, to the jurisdiction of the Secretary, and it directs the Secretary to improve that property as required to protect adjacent private property. This 3.25-acre Federal property, administered by the U.S. Coast Guard, consists of a light, lighthouse, and a small boat house on the west end of the 17-acre Bear Island. This facility, potentially eligible for nomination to the National Register of Historic Places, contributes to the visual character of the surrounding area. However, we recommend that the U.S. Coast Guard dispose of the facility with significant deed restrictions to insure appropriate preservation. The provisions under S. 720 would impose operational and administrative responsibilities that benefit the adjacent 13.68-acre private landowner, but would have limited benefits to the park visitors. This facility would require substantial funds to stabilize the structures and ensure protection to the adjacent landowner. We do not support this partial island acquisition and recommend that it be deleted.

If S. 720 is amended as we have recommended above, we strongly support its enactment. The estimated cost of acquiring the properties we believe should be included in the park is $13,823,000.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

P. DANIEL SMITH,
Acting Deputy Assistant Secretary.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 720 as reported.

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